



IRA A. JACKSON  
COMMISSIONER

# *The Commonwealth of Massachusetts*

## *Department of Revenue*

*Lowell Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

March 4, 1983

You inquire about the application of the sales tax to a company ("Company") that operates a recording studio. The Company produces "stereo master tapes" and sells them to performers. The performers have demonstration tapes made from the master tapes and distribute the demonstration tapes to help promote their professional careers.

In the production of a stereo master tape, the Company performs some or all of the following steps:

(1) Charting (i.e., writing the piece to be recorded in musical notation), arranging, and production and engineering (i.e., use of equipment to record the music as it is performed).

(2) Rehearsal, i.e., use by musicians of the studio and its recording equipment to practice and modify the arrangement.

(3) Multitrack mastering, i.e., recording individual instruments and voices onto a multitrack master tape. After creation of a stereo master tape, the multitrack tape is erased to be used again.

(4) Mixdown mastering. In this step, the individual tape tracks recorded in step (3) are played back and modified by an engineer to achieve the desired blend of instruments and voices. The individual signals are then mixed to form a composite signal that is recorded onto the stereo master tape.

The Company bills performers separately for (1) charting, arranging, production and engineering; (2) rehearsal time; (3) multitrack mastering; and (4) mixdown mastering.

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In some instances the Company itself engages musicians to back up a performer. In such cases the Company also bills the performer separately for fees paid to the musicians.

The sales tax is an excise on sales at retail of tangible personal property in Massachusetts (G.L. c. 64H, s. 2). The sales price of property on which the tax is based is the total amount paid by the purchaser, with no allowance for labor or service costs or other expenses (G.L. c. 64H, s. 1(14)).

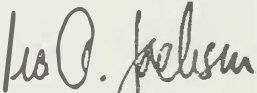
"Sale at retail" means a sale of tangible personal property for any purpose other than resale in the regular course of business (G.L. c. 64H, s. 1(13)).

Under General Laws Chapter 64H, Section 6(r), sales of materials, tools and fuel which become an ingredient or component part of tangible personal property to be sold or which are consumed and used directly and exclusively in an industrial plant in the actual manufacture of tangible personal property to be sold are exempt from the sales tax. Section 6(s) of Chapter 64H provides that sales of machinery or replacement parts thereof used directly and exclusively in an industrial plant in the actual manufacture, conversion or processing of tangible personal property to be sold are likewise exempt. For purposes of both paragraph (r) and paragraph (s) of Section 6, "industrial plant" means a factory at a fixed location primarily engaged in the manufacture, conversion or processing of tangible personal property to be sold in the regular course of business.

Based on the foregoing, it is ruled that:

1. The Company's purchases of stereo master tapes for resale, and its purchases of items that become ingredient or component parts of stereo master tapes to be sold, are exempt from the sales tax.
2. The Company's purchases of other materials and machinery used in its recording business are subject to the sales tax.
3. The Company's sales of stereo master tapes are subject to the sales tax. The sales price of a tape on which the tax is based is the entire amount paid therefor, including any separately-stated charges for charting, arranging, production, engineering, rehearsal time, multitrack or mixdown mastering, or musicians' fees.

Very truly yours,

  
Commissioner of Revenue